

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No. 07-26-SLR
	)	
EARL N. WALLACE	)	
	)	
Defendant.	)	

**GOVERNMENT'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING ON  
THE ELEMENTS REQUIRED UNDER 26 U.S.C. § 5861(i) AND TO CONTINUE TRIAL**

**NOW COMES** the United States of America, by and through its attorneys, Colm F. Connolly, United States Attorney for the District of Delaware, Shawn A. Weede, Assistant United States Attorney for the District of Delaware, and Shannon Thee Hanson, Assistant United States Attorney for the District of Delaware, and hereby submit the following:

1. On November 7, 2007, the government filed a letter brief with the Court in support of its proposed jury instruction for the elements of 26 U.S.C. § 5861(i). Specifically, the government argued therein that it in order to sustain a conviction under Section 5861(i), it is not required to prove that the defendant knew the firearm in question did not have a serial number.
2. On November 8, 2007, the defendant filed a letter brief in support of its proposed instruction for 26 U.S.C. § 5861(i), wherein he argued that such knowledge is required.
3. On November 13, 2007, the Court heard oral argument with regard to the parties'

proposed jury instructions on 26 U.S.C. § 5861(i). The Court indicated that it would attempt to render a decision on this issue on November 14, 2007, but that it may be necessary for the parties to submit further briefing and to continue the trial in this matter.

4. Since the government believes that this issue is potentially case-dispositive, the government respectfully requests that the Court continue the trial date in the above matter and allow both parties to submit further briefing. The government respectfully asserts that this will enable the parties to fully develop the record on this topic and provide the Court with a sufficient amount of time to consider and rule on this issue.

5. If the Court is inclined to grant the instant motion, the government further requests that the Court exclude the time from the date of this motion until the Court renders a decision on the above issue, under the Speedy Trial Act (18 U.S.C. § 3161 *et seq.*). The government submits that the time is excludable because the ends of justice served by the delay outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h).

6. Before the government filed the instant motion, it spoke with defense counsel, Eleni Kousoulis, Esquire. The defense indicated that it did not believe that further briefing was necessary, but that if the Court granted the instant motion, she would certainly comply with any briefing requested.

WHEREFORE, for the aforementioned reasons, the governments respectfully requests that the Court grant its Motion for Leave to File Supplemental Briefing on the Elements Required Under 26 U.S.C. § 5861(i) and to Continue Trial. A proposed Order is attached.

COLM F. CONNOLLY  
United States Attorney

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Dated: November 14, 2007

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UNITED STATES OF AMERICA,

Plaintiff,

v.

EARL N. WALLACE

Defendant.

Criminal Action No. 07-26-SLR

**ORDER**

Having considered the Government's Motion for Leave to File Supplemental Briefing on the Elements Required Under 26 U.S.C. § 5861(i) and to Continue Trial, **IT IS HEREBY ORDERED** that the trial in this matter is continued until further Order of the Court.

**IT IS FURTHER ORDERED** that the Government shall file any supplemental briefing relating to the elements required under 26 U.S.C. § 5861(i) by the \_\_\_\_ of \_\_\_\_\_, 2007. The defendant shall file any response thereto by the \_\_\_\_ of \_\_\_\_\_, 2007.

**IT IS FURTHER ORDERED** that, for the reasons cited in the Government's Motion, the time from November 14, 2007, until the resolution of the above issue by the Court shall be excluded under the Speedy Trial Act, because the ends of justice served by the delay outweigh the best interest of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h).

\_\_\_\_\_  
The Honorable Sue L. Robinson  
United States District Judge

Dated: